IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 2532 of 1996

Between:

Punyala Koti Reddy, S/o. Hanimi Reddy, 40 years,
R/o. Ramachandra Colony, Lingamguntla,
Narasaraopet, Guntur District.

..... PETITIONER

AND

1 The Deputy Executive Engineer, PWD.,Work Shop,
Lingamguntla, Narasaraopet,
Guntur.
2 The Exective Enigneer, PWD., Work Shop,
Lingamguntla, Narasaraopet,
Guntur.
3 The Superintendent Engineer, (Mechanical), Public Works
Dept., Guntur.
4 The Presiding Officer, Labour Court,
Guntur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Certiorari calling for the records pertaining to the I.D.No.345/1990 from the file of the presiding officer, Labour Court, Guntur i.e., the 4th respondent herein and quash the same in the interest of justice and fair play and consequently direct the respondents 1 to 3 to re-instate the petitioner into service with continuity of service and full back wages forthwith.

Counsel for the Petitioner: MR.K.VENKATESH

Counsel for the Respondents: GP FOR LABOUR

The Court made the following :

ORDER:

Heard both sides.

The petitioner, who claims to be an employee/worker with the respondents herein files this writ petition *inter alia* seeking to assail the award in I.D.No.345 of 1990, dated 29.04.1995 on the file of the Court of 4th respondent herein rejecting the reference made at the instance of the petitioner under Section 2-A (2) of the Industrial Disputes Act.

The case of the petitioner/simplicitor is that he has been appointed as a Mazdoor on temporary basis on 25.01.1979, that he has been continuously working in service, and that he has been legally terminated on 09.06.1990, without any notice or reason in support thereof. Further, having regard to the fact that he has completed the required period of 240 days. Therefore, he is well protected under the provisions of the Industrial Disputes Act and thus there is a clear violation not only to 25(F) and also to 25(h) of the said Act. Having failed in his attempt by various representations filed, the dispute has been raised at his instance and brought the notice to the labour Court. After contest and after conducting a regular enquiry therein, both sides led their evidence, the labour Court did not find favour of the petitioner and ultimately answered the said reference in the negative holding that the petitioner has not come out with the correct facts and the petitioner has made out any case to grant any relief.

Learned Counsel appearing on behalf of the petitioner submits that having regard to the fact that the dates as furnished by the respondent Management themselves shows that he has completed 240 days and therefore there is a clear violation of 25(h) and 25(f) of the Industrial Disputes Act. These submissions are said to be repealed on behalf of the petitioner.

I have given anxious consideration to the submissions made by the learned Counsel and also peruse the material available on record.

The only question that falls for consideration is whether there is any termination of the services of the petitioner is legal? There is no dispute to the

fact that the petitioner has been working as a Mazdoor at different stages appointed by the respondent/Management which has been extracted in para-2 of the award.

On the face of it, which shows that there is no continuity of service and there are substantial breaks. Further, it is the case of the petitioner that his services have been legally terminated on 09.06.1980. However, now the records shows that even according to the petitioner, it has to be accepted that he continued to remain in service up to 07.09.1980. Therefore, the petitioner himself is not aware of the termination if any. Apparently, it is only because of the service on daily wages, the petitioner sought to take advantage of the same to claim benefits under the provisions of the Industrial Disputes Act without there being any continuity of service. The 3rd respondent recorded a finding that there is inconsistency in the stand of the petitioner. The said finding is purely based on evidence both oral and documentary as produced on both sides. This Court could not go into such finding of fact or reappreciate the evidence without giving any different conclusion. Hence, I do not find any merits in the writ petition.

The writ petition is accordingly dismissed.

24.11.2004

MRKR

To

1 The Deputy Executive Engineer, PWD.,Work Shop,
Lingamguntla, Narasaraopet,
Guntur.
2 The Exective Enigneer, PWD., Work Shop,
Lingamguntla, Narasaraopet,
Guntur.
3 The Superintendent Engineer, (Mechanical), Public Works
Dept., Guntur.
4 The Presiding Officer, Labour Court,
Guntur.

5. Two C.Cs to the Government Pleader for labour, High Court Buildings, Hyderabad. (OUT)

6. Two C.D copies